

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKHirving Ayala Jr.

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Defendant Sgt. Walter Butler #379Defendant P.O. Luis Pagan # 22248Defendant P.O. Michael Ralieggh # 21415Defendant P.O. Mooyun Kim # 27642In there individual and official
Capacity those being the names of the
officers who were present and committed
wrongful acts and violations of civil rights

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Hirving Ayala Jr.

ID #

349 12 02707

Current Institution

GMDI - C-73

Address

15-15 Hazen StreetEast Elmhurst, Queens 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

Walter Butler Sgt.Shield # 379

Where Currently Employed

23rd Precinct

Address

162 East 102nd st.NYC NY 10029USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 11/19/12Official
AmendedCOMPLAINT 12 Civ 6534under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

(AJN)

Jury Trial: ☒ Yes ☐ No
(check one)

PRO SE OFFICE

Defendant No. 2 Name Luis Pagan P.O. Shield # 22268
 Where Currently Employed 23rd Precinct
 Address 162 East 102nd St.
NYC NY 10029

Defendant No. 3 Name Michael Ralieggh P.O. Shield # 21415
 Where Currently Employed 23rd Precinct
 Address 162 East 102nd St.
NYC NY 10029

Defendant No. 4 Name Mooyun Kim P.O. Shield # 27642
 Where Currently Employed 23rd Precinct
 Address 162 East 102nd St.
NYC NY 10029

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

At my residence of 324 East 108th Street on or
about the 14th floor.

B. Where in the institution did the events giving rise to your claim(s) occur?

On or about the 14th flr.

C. What date and approximate time did the events giving rise to your claim(s) occur?

On or about Feb 11, 2012 around 12 pm noon
time.

D. ^{FACTS:} I was assaulted by four New York Police Officers, at my place of residence on or about the 14th floor. A clear violation of my civil rights; lack of care and custody, above all cruel and unusual punishment.

What happened to you?

I was put in a choke hold by Sgt. Walter Butler #379, while Officers Luis Pagan #22268 and Officer Michael Raliegoh #21415 engaged in kicking & punching me about the face and abdomen area.

Who did what?

Police officer Moogun Kim #27642 assisted the above three officers by the holding of my legs so that I wouldn't regain my standing up on my feet.

Was anyone else involved?

My son's mother observed the Officers promote their misconduct of my civil rights, excessive force, also my roommate observed the Officers misconduct.

Who else saw what happened?

Natasha Cabrera 1952 1st Ave #2E NYC 10029

Michael Hernandez 324 E. 108th St. #14E NYC 10029

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Hospitalized for four hours; treated for lacerations to my knee, ice pack for my back, hip, knees. I was given Ibuprofen for my muscle aches also I was given antibiotics because I passed blood in my stool.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☐ No ☒

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

N/A

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☐ No ☐ Do Not Know ☐

N/A

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☐ Do Not Know ☐

N/A

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☐ No ☐

N/A

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

With the NYC Comptroller's Office and CCRB

1. Which claim(s) in this complaint did you grieve? On the excessive force and violations of my civil rights by NYPD

2. What was the result, if any? Was given a response of a Personal Injury claimant number #2012PI010692/11RB# 201210025

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but informed any officials of your claim, state who you informed.

when and how, and their response, if any:

N/A

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I filed claims of punitive damages, compensatory damages and consequential damages both in civilian complaint review board and New York City Comptroller's Office

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

I want the Court Judge to order psychotherapy evaluations and anger management skills to Officers Sgt Walter Butler #379, P.O. Luis Pagan #22268, P.O. Michael Ralagh #21415, P.O. Moayun Kim #27642, also to pay for punitive compensatory and consequential damages. I'm asking for a monetary compensation in the amount of \$3.5 million dollars U.S. currency. I would also ask for the defendants to pay out of pocket towards my court fees.

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No ☒

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____
3. Docket or Index number _____
4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____
6. Is the case still pending? Yes _____ No _____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes _____ No

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____
3. Docket or Index number _____
4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____
6. Is the case still pending? Yes _____ No _____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 24 day of October, 2012.

Signature of Plaintiff

Inmate Number

Institution Address

H. Ayala Jr.

349 12 02707

15-15 Hazen Street

George Motchan Detention Center

East Elmhurst, Queens 11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 24 day of October, 2012, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

H. Ayala Jr.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKHirving Ayala Jr.

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

12 Civ. 0534 (AJN) ()

-against-

REQUEST TO PROCEED
IN FORMA PAUPERISSgt. Walter Butler #379P.O. Luis Pagan # 22268P.O. Michael Ralleggh # 21415P.O. Mooyun Kim # 27042

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, _____, (print or type your name) am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

1. If you are presently employed:
- give the name and address of your employer
 - state the amount of your earnings per month

Not employed

2. If you are NOT PRESENTLY EMPLOYED:
- state the date of start and termination of your last employment
 - state your earnings per month

YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.

3/14/08 to 6/13/08 \$800 per month

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

Public Assistance \$200⁰⁰ per month 2/11/12 til present
But since my incarceration

- a) Are you receiving any public benefits? ☒ No. ☐ Yes. \$ _____
- b) Do you receive any income from any other source? ☒ No. ☐ Yes. \$ _____

4. Do you have any money, including any money in a checking or savings account? If so, how much?

☒ No. ☐ Yes, \$ _____.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

☒ No. ☐ Yes, \$ _____.

6. Do you pay for rent or for a mortgage? If so, how much each month?

☒ No. ☐ Yes, _____.

7. List the person(s) that you pay money to support and the amount you pay each month.

Noel Logan Ayala - my Son
I paid my Son's mother up to \$150⁰⁰ dollars per month for support

8. State any special financial circumstances which the Court should consider.

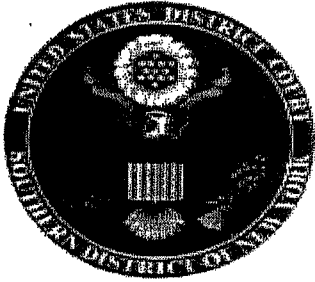
The fact that when released from incarceration I will be homeless
jobless and without my family. I'm going to need money to
re establish myself.

I understand that the Court shall dismiss this case if I give a false answer to any questions in this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 24 day of October, '12.
date month year

H. Ayala Jr.
Signature



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

PRISONER AUTHORIZATION

Case Name: Hirving Ayala Jr. Sgt Walter Butler #379; P.O. Michael Rallegi #21415
 (Enter the full name of the plaintiff(s)) v. P.O. Luis Pagan #22268; P.O. Moayon Kim #27642
 (Enter the full name of the defendant(s))

Docket No: No. 12 Civ. 6534 (AJN)
 (Enter the docket number, if available; if filing this with your complaint, you will not have a docket number.)

The Prison Litigation Reform Act ("PLRA" or "Act") amended the *in forma pauperis* statute (28 U.S.C. § 1915) and applies to your case. Under the PLRA, you are required to pay the full filing fee when bringing a civil action if you are currently incarcerated or detained at any facility. If you do not have sufficient funds in your prison account at the time your action is filed, the Court must assess and collect payments until the entire filing fee of \$350.00 has been paid, no matter what the outcome of the action.

SIGN AND DATE THE FOLLOWING AUTHORIZATION:

I, Hirving Ayala Jr. (print or type your name), request and authorize the agency holding me in custody to send to the Clerk of the United States District Court for the Southern District of New York, or, if this matter is transferred to another district court, to the Clerk of the transferee court, a certified copy of my prison account statement for the past six months. I further request and authorize the agency holding me in custody to calculate the amounts specified by 28 U.S.C. § 1915(b), to deduct those amounts from my prison trust fund account (or institutional equivalent), and to disburse those amounts to the United States District Court for the Southern District of New York. This authorization shall apply to any agency into whose custody I may be transferred, and to any other district court to which my case may be transferred and by which my poor person application may be decided.

I UNDERSTAND THAT BY SIGNING AND RETURNING THIS NOTICE TO THE COURT, THE ENTIRE COURT FILING FEE OF \$350.00 WILL BE PAID IN INSTALLMENTS BY AUTOMATIC DEDUCTIONS FROM MY PRISON TRUST FUND ACCOUNT EVEN IF MY CASE IS DISMISSED OR EVEN IF I VOLUNTARILY WITHDRAW THE CASE.

10/24, 2012
 Date signed

H. Ayala Jr.
 Signature of Plaintiff
349 12 02707
 Prisoner I.D. Number

George Motchan Detention Center
 Name of current facility

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Hirving Ayala Jr.

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

- against -

Defendant Sgt. Walter Butler #379

Defendant P.O. Luis Pagan # 22208

Defendant P.O. Michael Raligh # 21415

Defendant P.O. Mooyun Kim # 27042

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

12 Civ. 6534 (AJN) ()

AFFIRMATION OF SERVICE

I, Hirving Ayala, declare under penalty of perjury that I have

served a copy of the attached 4 Summons & Complaints; 6 Amended Complaints; ^{4 Notice of Assignment}
(document you are serving) ^{4 Order of Service}
^{4 Order Granting IFP}

upon Pro Se Office whose address is _____
(name of person served)

500 Pearl Street Rm 230 NYC NY 10007
(where you served document)

by Certified Mail by mail room at GMDC Facility
(how you served document: For example - personal delivery, mail, overnight express, etc.)

Dated: E. Elmhurst NY
(town/city) (state)
October 25, 2012
(month) (day) (year)

H. Ayala Jr.
Signature
1515 Hazen Street
Address
E. Elmhurst NY
City, State
11370
Zip Code

Telephone Number _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AYALA

Docket Number: 12 CV 6534 (AJN)

-against-

NOTICE OF ASSIGNMENT
(PRO-SE)

BUTLER

The above-entitled action is:

☐ Declined by Hon.

As ☐ Related/ ☐ Similar to case #:

☒ Assigned to the Hon. ALISON J. NATHAN (AJN)

☒ Designated / ☐ Redesignated Hon. JAMES L. COTT (JLC),
Magistrate Judge

☐ Accepted by Hon. as ☐ Related/ ☐ Similar to case #:

☐ Designated ☐ Redesignated Hon. ,Magistrate Judge

All further documents submitted in this action must bear the Judge's initials after the docket number

The attorney(s) for the plaintiff(s), or pro se plaintiff (s), is directed to serve a copy of this Notice of Assignment on all defendants.

Ruby J. Krajick
Clerk of Court

Dated: 10/01/2012

By: PHYLLIS ADAMIK
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: OCT 03 2012

-----X
HIRVING AYALA,

Plaintiff,

-against-

SGT. WALTER BUTLER, Shield #379;
P.O. LUIS PAGAN, Shield # 22268;
P.O. MICHAEL RALIEGH, Shield # 21415;
P.O. MOOYUN KIM, Shield #27642,

Defendants.
-----X

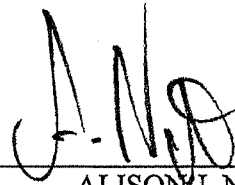
ORDER OF SERVICE

12 Civ. 6534 (AJN)

ALISON J. NATHAN, United States District Judge:

The Clerk of Court is directed to issue a Summons in this action, and the Plaintiff is directed to serve the Summons and Complaint upon Defendants within 120 days of the issuance of the Summons. If service has not been made within those 120 days, and Plaintiff has not requested an extension of time to serve within those 120 days, the Complaint may be dismissed for failure to prosecute pursuant to Rules 4 and 41 of the Federal Rules of Civil Procedure.

SO ORDERED:



ALISON J. NATHAN
United States District Judge

Dated: October 3, 2012
New York, New York

COPIES MAILED
TO ~~COUNSEL~~ OF RECORD ON OCT 03 2012
Pro SE Party

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Hirving Ayala,

Plaintiff/Petitioner(s),

-against-

Sgt. Butler #379, et al.,

Defendant/Respondent(s).

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: Oct. 1, 2012

ORDER GRANTING IFP APPLICATION

12 Civ. 6534 (UA)

LORETTA A. PRESKA, Chief United States District Judge:

Leave to proceed in this Court without payment of fees is authorized. 28 U.S.C. § 1915.

SO ORDERED:



LORETTA A. PRESKA
Chief United States District Judge

Dated: October 1, 2012
New York, New York

SCANNER



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Pro Se Office

To: The Honorable Judge Alison J. Nathan

From: S. Coretto, Pro Se Intake Clerk, Docket Services, Ext. 1177

Date: 11/21/12

Re: Ayala v. Butler et al, 1:12-cv-06534-AJN

The attached document, which was received by this Office on 11/19/12, has been submitted to the Court for filing. The document is deficient as indicated below. Instead of docketing the document for public access, it has been docketed as a court-view only docket entry. I am forwarding it to you for your consideration. See Fed. R. Civ. P. 5(d)(2)(B), (4).

- () No original signature.
- () No Affirmation of Service/ Proof of Service.
- (X) **Other:** Plaintiff seeks to file an Amended Complaint.

If you memo-endorse the filing, you do not need to return this memorandum to the Pro Se Office. Once your memo-endorsement is docketed and filed, all ECF users on the case will be notified.

In the alternative, please return this memorandum with the attached papers to this Office, indicating at the bottom what action should be taken.

☒ ACCEPT FOR FILING

() RETURN TO *PRO SE* LITIGANT

Comments:

A. Nathan

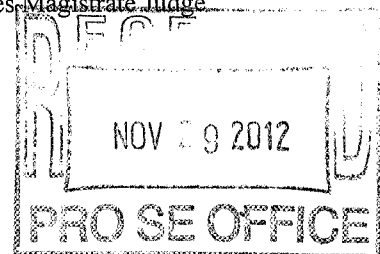
United States District Judge

Dated:

11/28/12

United States Magistrate Judge

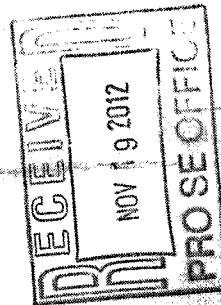
Dated:



Hiring Ayala Jr
349 12 02707
15-15 Hazen St.
E. Elmhurst, NY 11370



ProSe Office
300 Pearl St. Rm 230
NYC, NY 10007

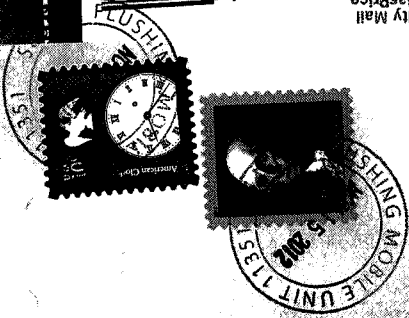


PLACE STICKER AT TOP OF ENVELOPE
TO THE RIGHT OF RETURN ADDRESS.
FOLD AT DOTTED LINE

CERTIFIED MAIL



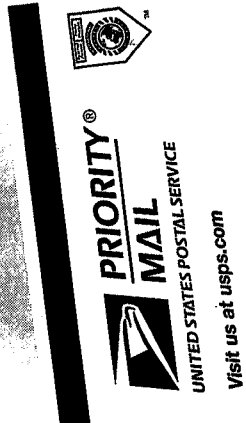
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UNITED STATES POSTAGE
02 1R \$10.20⁰
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Priority Mail
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Label 107R, January 2008